Court No. 2

IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

Writ Petition (M/S) No. 657 of 2007
(Old No. 44953 of 1998)

Shoeb Alam Khan ..... Petitioner

Versus

The Presiding Officer,
Central Government Industrial
Tribunal cum-Labour Court,
Pandu Nagar, Kanpur and another.
..... Respondents.

.....

Sri R.K. Raizada Advocate assisted by Sri Ram Ji Srivastava, learned counsel for the petitioner.
Sri J.P. Joshi, learned counsel for the respondent No. 2.

Date: July 31, 2008

Hon'ble P.C. Verma, J.

This petition has been filed by the petitioner seeking writ of certiorari quashing the award dated 08.06.1998 passed by the respondent No. 1, contained in Annexure No. 1 to the writ petition.

2. On a dispute raised by workman, the Central Government, vide its notification No. L-20040/27/95-I.R. Coak-I dated 9th August, 1996 referred the matter to the Central Government Industrial Tribunnal-cum-Labour Court, Kanpur for adjudication in the following terms:-

> Whether the demand of Sri Shoeb Khan that his services were illegally terminated by the Management of ONGC limited, the then ONGC w.e.f. 01.07.1987 is legal and justified? If so, to what relief Sri Shoeb Khan is entitled to?

3. The parties have contested the case before the Labour Court. The workman Sri Shoeb Khan pleaded that he has worked with the Opp.party (respondent no. 2 herein) as clerk from 23.06.1986 to 30.06.1987 continuously. In this way he had completed 240 days in a year. Thereafter he was removed form service in breach of provisions of Section 25 F Industrial Disputes Act.

4. The Opp.party in its written statement alleged that the concerned workman was never engaged on any permanent post. The workman had not continuously worked. It was also denied that any new hand was recruited or junior to the concerned workman retained in service. It was also alleged that the claim is highly belated.

5. Both the parties have led their evidence, oral as well as documentary. The Labour Court after considering the evidence came to the conclusion that the concerned workman has completed 240 days in a year preceding the date of his termination and the termination of workman is bad in law being in breach of provisions of Section 25 F of Industrial Disputes Act. The Labour Court further held that because of unexplained delay the workman will not be entitled for reinstatement but awarded Rs. 10,000/- as compensation in lieu of reinstatement.

6. The learned counsel for the petitioner contended that the labour Court has committed error in refusing the reinstatement of the petitioner in service on the ground that there has been delay in filing the claim petition which was not explained while the finding has

been recorded to the effect that the termination is bad in law and in breach of provision of Sec. 25 F of Industrial Disputes Act. The learned counsel for the respondent No.2 contended that there is delay of about seven years in making the claim and no explanation has been given by the petitioner of this delay.

7. I find no force to the contention made by the learned counsel for the parties. The Labour Court has recorded its finding on the basis of evidence on record. The delay has not been explained by the petitioner in filing the claim petition. The Labour Court has rightly refused the reinstatement of the petitioner in service. But in my opinion the amount of compensation is too meager. The amount of compensation is enhanced from Rs. 10,000/- to Rs. 25,000/- (Rupees twenty five thousand).

8. The writ petition is partly allowed accordingly. No order as to costs.

(P.C. Verma, J.)
31.07.2008

P.Singh